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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 12 May 2008 from the Permanent Mission of Madagascar to the United Nations addressed to the Coordinator of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) and subsequently forwarded to the Chairman of the Committee

The Permanent Mission of the Republic of Madagascar to the United Nations presents its compliments to the Al-Qaida/Taliban Monitoring Team and, with reference to Security Council resolution 1267 (1999), has the honour to transmit the report of the Republic of Madagascar regarding that resolution in accordance with paragraphs 6 and 12 of Security Council resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 12 May 2008 from the Permanent Mission of Madagascar to the United Nations addressed to the Coordinator of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) and subsequently forwarded to the Chairman of the Committee

[Original: French]

Report of the Republic of Madagascar submitted pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003)

With respect to the implementation of Security Council resolution 1455 (2003), I have the honour to transmit the report of the Malagasy Government concerning resolution 1267 (1999), pursuant to paragraphs 6 and 12 of resolution 1455 (2003).

I. Introduction

1. To its knowledge, Madagascar is not immune to the threat posed by Usama bin Laden, Al-Qaida, the Taliban and their associates.

Likely trends have been noted in certain parts of the island such as Mahajanga, Antsiranana and Manakara.

Information has been obtained suggesting that the African Muslim Association, a charity established in Madagascar some years ago, has been in contact with and financed by terrorist groups. Administrative measures have been taken in this connection: long-stay visas were denied to some expatriate employees of this NGO, including Selama Mohammed Seghir, an Algerian, who was taken to the border on 11 October 2004 pursuant to Order No. 19103/2004 of 8 October 2004.

According to INTERPOL, in 2005 members of Al-Qaida on their way to Africa allegedly stopped in transit in Madagascar.

A woman named Alima, a mixed-race Comorian living in Madagascar, has reportedly been identified as the spouse of the alleged terrorist Fazul Abdullah Mohammed, who is accused of having participated in the 1998 bombing of the United States embassy in Nairobi and who is reported to have passed through Mahajanga, a town on the western coast of Madagascar.

Jamal Khálifa, a brother-in-law of Usama bin Laden, was killed in Ilakaka (a region in southern Madagascar) in February 2007. He had also been suspected of financing terrorist activities. However, during his long stay in Madagascar, the Malagasy authorities were never able to obtain information on his ties to terrorists.

Three Malagasy associations allegedly have ties to the terrorist group led by Abu Musab Al-Zarqawi (Al-Qaida) in Madagascar:

- The Ahmadyya Association, based in Antananarivo and headed by Mohamad Amin Jow Ahir;
- The African Muslim Association, headed by Abdoul Momin (Mahomet).

This association changed its name in 2001. It became known as the Direct Aid Society, with branches and offices in some 32 States in the world. The Society is very active in Africa (Comoros, Sahrawi Arab Democratic Republic, Kenya, Mozambique, United Republic of Tanzania, Zanzibar, Zimbabwe, Malawi and Madagascar) in the framework of the Islamic Charity Organization;

– The Fatwa organization, related to the African Muslim Association or Direct Aid Society and headed by Amado Oussein (Maï) Said Tambolahy.

II. Consolidated list

2. Specifically with respect to the department of the Secretariat of State with responsibility for public security, the information on the Committee's list is entered into the electronic records and communicated to all border posts, the services under the Office of Operations and Technical Coordination of Security (in this case, the Central Counter-Terrorism Service), the Intelligence and Territorial Surveillance Office and the Central Bureau of INTERPOL, Directorate-General of the National Police.

3. With respect to the other departments (Ministry of Finance, Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Justice, Central Bank of Madagascar), the problem lies in the absence of a national law and regulations in this regard, and particularly of a technical structure making it possible to disseminate the list through the Internet. A draft law is currently being considered by a legal technical commission.

As to the submission of names and identifying information, no major problems have been noted to date. However, it would be desirable for the list and photos to be submitted at the same time.

4. To date, none of the individuals or entities on the list has been found to be in the national territory. However, Fazul Abdullah Mohammed (list No. 17) is rumoured to have been seen in the Comoros towards the end of 2003 and his wife is reportedly in Toamasina. Fazul Abdullah Mohammed allegedly has a number of travel documents of different nationalities with false names.

5. No individuals or entities associated with Usama bin Laden or members of the Taliban or Al-Qaida have been identified in Madagascar.

6. None of the listed individuals or entities has brought a lawsuit or engaged in legal proceedings against the authorities for inclusion on the list.

7. None of the listed individuals has been identified as a resident or national of Madagascar. Should such a case arise, Madagascar stands ready to notify the Committee and provide it with the necessary information.

8. At present Madagascar does not yet have any national legislation on terrorism. Controls on the movement of aliens at border posts (airport and border police) and on their stay in the national territory, controls on bank transfers of foreign exchange and assets, the adoption of a new non-falsifiable biometric passport for nationals, and steps to monitor the movements of members of certain communities (Asian Muslims) have been introduced by the Malagasy State to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out

activities inside the country, and to prevent individuals from participating in Al-Qaida training camps.

In addition, specialized services have been established to intensify the collection and transmission of information for the detection of threats and activities on the part of possible terrorists in Madagascar:

- A Central Counter-Terrorism Service has been established within the Secretariat of State with responsibility for public security (National Police), reporting to the Ministry of the Interior (e-mail: doret3@yahoo.fr; fax: 261 20 24 734 17);
- A Central Intelligence Service has been established in the Office of the President of the Republic.

It should be noted that, to improve coordination within the Directorate-General of the National Police, the Central Counter-Terrorism Service works in close cooperation with other departments, including the Central Service for Territorial Surveillance, the Central Service for Immigration and Emigration, the Central Intelligence Service, the airport and border police and the Central Bureau of INTERPOL within the Directorate-General of the National Police.

The Central Counter-Terrorism Service also cooperates with special services of other countries and with the African Centre for Studies and Research on Terrorism. The Chief of the Central Counter-Terrorism Service acts as the Centre's focal point in Madagascar.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), Member States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for the ends sought by such persons, by their nationals or by any persons within their territory.

Note: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. Madagascar has no national legislation concerning the financial and economic assets freeze applicable to listed individuals and entities. However, if any financial networks linked to Usama bin Laden, Al-Qaida or the Taliban or to individuals or groups that support or are associated with these entities are found to exist and are confirmed through research and investigation, in line with international conventions, all available information will be provided to the competent authorities with a view to effecting a police operation.

10. The Malagasy State has taken the following steps to deal with financial networks linked to Usama bin Laden, Al-Qaida or the Taliban or to individuals or groups that support or are associated with these entities.

a. National level

At the outset, it should be noted that Madagascar does not yet have national legislation or a domestic legal basis to implement the asset freeze required by the resolutions, although a team is currently working to develop such legislation.

In the short term, a project will be implemented to establish a counter-terrorism cell consisting of all civilian and military departments involved in counter-terrorism in Madagascar. It will be responsible for collecting, analysing and exchanging intelligence concerning terrorism. There is also a project to establish SAMFIN, an agency for combating organized crime, serious financial crimes and the financing of terrorism. Any suspicious financial movements are promptly reported to the banking authorities and the Ministry of Justice, which, in turn, order an immediate investigation.

b. Regional level

Madagascar is one of the States members of the Indian Ocean Commission (IOC), a regional organization established in 1984 under an agreement on regional cooperation signed in Victoria. IOC has five member States: the Comoros, La Réunion, Madagascar, Mauritius and Seychelles.

The member States protect their mutual interests through practical cooperation to combat common threats, particularly terrorism.

c. International level

Madagascar has ratified about a dozen international conventions, including the Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism (Algiers, July 1999), the International Convention for the Suppression of Terrorist Bombings (New York, December 1997) and the International Convention for the Suppression of the Financing of Terrorism (New York, December 1999).

In addition, Madagascar cooperates actively with INTERPOL on a regular basis.

Madagascar works closely with the African Centre for Studies and Research on Terrorism to develop a coherent and effective approach to counter-terrorism efforts.

11. Since there are as yet no specific legal texts on the steps banks and other financial institutions are required to take, the Malagasy State refers to Law No. 2004-020 on the laundering, detection and confiscation of the proceeds of crime and on international cooperation in this regard.

12. To date, no assets of listed individuals or entities have been frozen.

13. No financial assets, funds or economic resources related to Usama bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities have been released by the Malagasy State.

14. The Malagasy State refers to Law No. 2004-020 on the laundering, detection and confiscation of the proceeds of crime and on international cooperation in this regard (see law).

IV. Travel ban

Under the sanctions regime, all States are required to take measures to prevent the entry into or transit through their territories of listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. For the moment, Madagascar has no legislative or administrative measures in place. In practice, however, the National Police, specifically the airport and border police, always refer to the list for the purpose of taking appropriate measures, where necessary, to refuse entry into the territory. No such case has ever arisen, however.

16. Persons subject to administrative measures (prohibited from entry into or transit through the territory) will be systematically stopped, turned back or taken back to the border.

17. In principle, the national stop list is updated every three months, as is the consolidated list, once they are transmitted to all border control posts. Of the seven international airports in Madagascar, not to mention other border posts such as Fort-Dauphin, Nosy Be and Sainte Marie, only four have electronic means for searching list data. These four are the following international airports:

- Ivato (Antananarivo);
- Amborovy (Mahajanga);
- Ambalamanasa (Toamasina);
- Arachard (Antsiranana)

but they are not networked.

18. To date, no listed individual has been stopped at the border.

19. Madagascar's embassies and consulates have a database on the list of undesirables that is periodically and regularly updated.

However, to date, the visa authorities have not identified any visa applicant whose name appears on the list.

V. Arms embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of Al-Qaida and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. The Government of the United States of America and the European Union have provided surveillance vessels to patrol Madagascar's coasts, but this is far from being an effective and sufficient measure. These vessels cannot cover all of the island's coastal borders owing to their limited cruising range. Madagascar's borders are more or less free from scrutiny, meaning that they are permeable and porous to any clandestine trafficking in arms. To improve the effectiveness and speed of actions in this regard, it would be desirable to strengthen surveillance of the

country's maritime borders with air support (helicopters) and detection equipment (radar).

21.22.23. In Madagascar, the regime for the import or export of arms is governed by Decree No. 70-041 implementing Law No. 69-011 of 22 July 1969 on the regime for armaments other than edged weapons, published in Official Gazette No. 687 of 17 November 1970.

No specific measures have been taken in this regard; the arms and ammunition used in Madagascar are generally imported from abroad. There are as yet no plans to start producing or manufacturing weapons. However, a draft law on armaments is currently at the drafting and technical study stage.

The country has regulations in force on the manufacture, transformation, entry, trade, use and circulation of arms and ammunition within the national territory.

Authorizations, approvals and permits for the manufacture, import, export, trade, possession and carrying of weapons are not granted on a permanent basis. A weapons permit may be revoked by the administrative authorities as a result of misconduct on the part of the holder or serious circumstances necessitating measures to safeguard or maintain public order. In some cases a weapon may be seized or confiscated.

VI. Assistance and conclusions

24. In March 2006 Madagascar acceded to the Convention on Regional Security of the States members of the Indian Ocean Commission. The Convention's general provisions call for:

- Coordination of efforts to combat certain problems such as those related to transnational crime, including terrorism and large-scale trafficking;
- Promotion, through training, of coherent approaches and practices in the member countries in the areas of crime research, counter-terrorism and maintenance of public order;
- Exchange of information and experiences.

The Malagasy Government cooperates with special services in other countries, in line with the practice of the African Centre for Studies and Research on Terrorism, whose focal point in Madagascar is the Chief of the Central Counter-Terrorism Service, under the Secretariat of State with responsibility for public security.

25. The implementation of resolution 1267 (1999) requires an investment in equipment and human resources. The INTERPOL secure network is the only available means of transmitting and exchanging information at the multilateral level.

The logistical resources available to the Malagasy State are clearly insufficient. The Malagasy Government would like to receive technical assistance in the following areas:

A. Training

- Information technology training, followed by a regular training cycle to build capacity;

– Case processing, record-keeping, filing systems, documentation;

– Compilation of files on espionage and counter-espionage in relation to terrorist groups or associations, secret services of different countries;

– Analysis of terrorism: methodology, nature of the group, ideology, modus operandi, reconnaissance, neutralization, flexibility;

B. Cooperation

Maintenance of a website for the exchange of correspondence and the detection of messages from terrorist networks communicating over the Internet.

Maintenance of interregional (Common Market for Eastern and Southern Africa (COMESA), Southern African Development Community (SADC), Indian Ocean Rim Association for Regional Cooperation (IOR-ARC), Indian Ocean Commission (IOC)) and international relations:

• Seminar, conference, symposium, colloquium (information exchange);

• Training course.

C. Evaluation of assistance

The Central Counter-Terrorism Service was designed to take timely and effective action against any act of terrorism.

– Only the department of the Secretariat of State with responsibility for public security has a Central Counter-Terrorism Service at the national level (established pursuant to decision No. 2004-029 of 13 January 2004) that works in close cooperation with the National Central Bureau of INTERPOL.

– Most terrorism-related data are sent to this Service: intelligence, texts, information, regional and international relations in close cooperation with the Ministry of Foreign Affairs.

The latter is responsible for analysis and evaluation.

a. Training:

Personnel

Increase the number of specialized training initiatives that teach the required skills:

• Training of trainers to ensure continuity and the proper functioning of the Service;

• Specialization (efforts to use teaching methods adapted to reflect technological developments);

• Initiation of new recruits.

– Provision of specific support and resources for specialized services such as the Central Counter-Terrorism Service, the Anti-Gang Unit and the Rapid Response Group.

Initial training of personnel in the following areas:

- Investigations;
- Collection of information;
- Explosives;
- Informatics;
- Information and communication technology.

b. Technical and specialized equipment:

- Observation equipment with automatic distance sensing: X-ray or infrared vision equipment, GPS devices, binoculars;
- Equipment for detection, neutralization, demolition and investigation;
- Miniature electronic surveillance equipment;
- Portable computer equipment with specialized software;
- Telephone listening devices (interception of e-mails, short message service (SMS) messages and telephone calls).

c. Vehicles:

- Special vehicles to facilitate rapid response.

d. Infrastructure:

- Construction of a building (premises) to house the Central Counter-Terrorism Service.

D. Assistance:

It should be noted that Madagascar does not yet have any domestic legislation or legal framework to serve as a basis for the application of assets freezes, travel restrictions or arms embargoes as required under the relevant resolutions. Accordingly, the country is in need of assistance in designing and drafting appropriate legislation, and in particular requires technical support for the draft law on terrorism (assets freeze (?), travel restriction and arms embargo).

Conclusions

In conclusion, Madagascar suffered a post-election crisis in 2002 following the presidential election. Since many military weapons disappeared, a large number of weapons are circulating in the country, posing a threat to public order. The three entities responsible for public order (police, gendarmerie and army) work together in the Mixed Operational Command Group to coordinate their actions.

Given its enormous potential in terms of natural, fishery and agricultural resources and the vast extent of its territory and coastlines, Madagascar is highly vulnerable to terrorism and to various forms of trafficking and represents a springboard, and an enabling environment, for transnational and international criminal activities. Potential threats include clandestine immigration networks, trafficking in drugs (including cannabis) and precious stones, terrorism, valuable woods, endemic plants and protected animals, illegal fishing, sex tourism, money-laundering, etc. Often, unidentified vessels are seen along our coasts and

leave again before they can be inspected. Sometimes, illegal aliens enter and leave the territory without difficulty as they slip through our borders.

Assessment of the terrorist threat in Madagascar:

Madagascar could become a refuge, transit point, financing base and even logistical base for terrorists because of its geographical location, its poverty, the insufficient capacity of its security forces, the freedom with which foreigners are able to circulate and insufficient border control capacity. The characteristics of the region as a result of the preponderance of Western interests, the busy air traffic, the country's attractiveness as a tourist destination, the rise of radical Islamism and the presence of fundamentalist (so-called charitable) organizations that could support terrorism all threaten Madagascar, which could become a haven for dangerous terrorists.

Thus, Madagascar could become a springboard and a refuge for international terrorists.